

R: REDACTED MATERIAL

SENT BY:

1- 4-96 : 4:51PM : ARNOLD & PORTER-3276#05633227#121290:# 2

*Entered and served*

*FILE*

In the United States District Court

FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

DAVID TIJERINA and his wife EDELMIRE,  
ESTRINGEL TIJERINA;

REDACTED

WELDON WYATT LEWIS and WILLIAM  
THOMAS LEWIS, Individually and as  
Co-Administrators of the Estate of  
ROY WELDON LEWIS, Jr., Deceased; and

REDACTED

REDACTED

FRANCES WATSON, Individually and as  
Executrix of the Estate of JAMES  
WATSON, Deceased,

REDACTED REDACTED

REDACTED

vs.

REDACTED

REDACTED

No. 2-95-CV-120

PHILIP MORRIS INCORPORATED  
and HOECHST CELANESE  
CORPORATION, a/k/a CELANESE  
PLASTICS COMPANY, a division of  
CELANESE CORPORATION f/k/a  
CELANESE CORPORATION OF  
AMERICA, f/k/a CELANESE  
CORPORATION, and HOECHST  
CELANESE CORPORATION f/k/a  
CELANESE CHEMICAL COMPANY,  
INC. a/k/a HOECHST CELANESE  
CHEMICAL COMPANY a/k/a HCCGI,

REDACTED REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

PLAINTIFFS' THIRD REQUEST TO PRODUCE  
TO DEFENDANT PHILIP MORRIS INCORPORATED

SERVED ON DECEMBER 22, 1995

**COPY**

PLAINTIFF'S THIRD REQUEST TO PRODUCE  
TO DEFENDANT PHILIP MORRIS INCORPORATED

PAGE NO 1

2043724218

COMES NOW David Tijerina, et al. ("Plaintiffs"), and pursuant, to Fed. R. Civ. P. Rules 34, requests Philip Morris Incorporated ("Philip Morris"), one of the defendants in this case, to produce and permit Plaintiffs and their counsel (and counsels' assistants) to inspect and copy the documents designated in Appendix A.

In responding to these interrogatories, Philip Morris is required to furnish all of the responsive documents that are available to Philip Morris, or to all of its officers, directors, employees, affiliates, or available to its agents, its attorneys, or to anyone else acting for or on behalf of Philip Morris.

Philip Morris is requested to produce the documents at the office of Tom Upchurch, Jr. & Associates, in Amarillo, Texas, after 9:00 a.m. (on or before the thirtieth (30th) day after the date of the service of this request), where plaintiffs will promptly review such documents and make such copies as are needed for their use in this matter. If Philip Morris does not intend to make the production at this location, it shall state at what location or locations they will be made available, with the time of their availability stated.

In accordance with Fed. R. Civ. P. Rule 34(b)(subpart 3), Philip Morris shall produce the requested documents as they are kept in the course of the corporation's business, or shall organize and label them to correspond to the categories in this request.

Philip Morris shall seasonably amend its response to this request to produce in accordance with the provisions of Fed. R. Civ. P. Rule 26(e)(2)

The specific requests to produce are listed with particularity in Appendix A.

Special instructions pertaining to the requests to produce are listed in Appendix B.

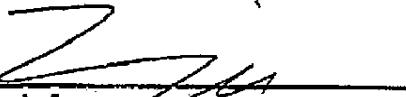
Definitions pertaining to the requests to produce are listed in Appendix C.

2043724219

Dated: December 22, 1995.

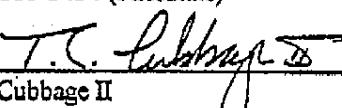
Respectfully submitted,

TOM UPCHURCH, JR. & ASSOCIATES  
3310 I-40 West at Julian  
Amarillo, Texas 79102  
(806) 355-8925 (Telephone)  
(806) 355-7548 (Facsimile)

By:   
Tom Upchurch, Jr.  
SBOT No. 20110000

By:   
Kevin A. Isern  
SBOT No. 10432900

T. L. CUBBAGE II, P.C.  
The Law Centre at Dorchester House  
P.O. Box 1625  
Bartlesville, Oklahoma 74005-1625  
(918) 335-3800 (Telephone)  
(918) 335-3434 (Facsimile)

By:   
T. L. Cubbage II  
SBOT No. 05201500  
Oklahoma Bar No. 2068

DAVID LUTHER WOODWARD  
Law Offices of David Luther Woodward  
3626 North Hall Street, Suite 415  
Dallas, Texas 75219  
(214) 522-2277 (Telephone)  
(214) 520-6550 (Facsimile)

By:   
David Luther Woodward  
SBOT No. 21975640  
Oklahoma Bar No. 9783  
Florida Bar No. 121708

[List Continued Overleaf]

SENT BY:

1- 4-96 : 4:52PM : ARNOLD & PORTER-8276#05633227#121290:# 5

HERBERT T. SCHWARTZ  
Sullins, Johnson, Rohrbach & Magers  
3701 Kirby Drive, Suite 1200  
Houston, Texas 77098  
(713) 521-0221 (Telephone)  
(713) 521-3242 (Facsimile)

By: Herbert T. Schwartz  
Herbert T. Schwartz  
SBOT No. 17863020  
Florida Bar No. 100248

ATTORNEYS FOR PLAINTIFFS

2043724221

**CERTIFICATE OF SERVICE**

This is to certify that on the 22nd day of December, 1995, a true and correct copy of the above and foregoing instrument has been served on the Defendant, Philip Morris Incorporated, by serving the following counsel of record by first class mail, or where noted by personal service:

**COUNSEL FOR DEFENDANT PHILLIPS MORRIS INCORPORATED:**

Thomas C. Riney  
Gibson, Ochsner & Atkins  
500 Boatman's First National Bank Building  
8th & Taylor Street  
Amarillo, TX 79101

By mail and personal service

Thomas M. Bullion III  
Herman, Bullion, Howry & Horton  
2000 Franklin Plaza  
111 Congress Avenue  
Austin, TX 78701

By mail only

Hadrian R. "Harry" Katz  
Arnold & Porter  
Thurmond Arnold Building  
555 12<sup>th</sup> Street, N.W.  
Washington, DC 20004

By mail only

**COUNSEL FOR DEFENDANT HOECHST CELANESE CORP.:**

Harlow Sprouse  
John Ben Blanchard  
Sprouse, Mazola, Smith & Rowley, P.C.  
First National Place I  
801 S. Filmore, Suite 600  
P. O. Box 15008  
Amarillo, TX 79105-5008

By personal service and mail

David P. Callet, P.C.  
Colleen M. Coyle  
Akin, Gump, Strauss, Hauer & Feld, L.L.P.  
1333 New Hampshire Avenue, N.E., Suite 400  
Washington, DC 20036

By mail only



Kevin A. Isern

## APPENDIX A — REQUEST TO PRODUCE DOCUMENTS

*Certain terms used in Appendix A are defined in Appendix B which is attached to this request to produce documents.*

*Philip Morris Incorporated is requested to produce documents:*

### GENERAL AND HISTORICAL BACKGROUND

1. Concerning meetings of the Tobacco Institute's Committee of Counsel and any issues raised in those meetings, particular any proposals asking for the funding of research and the action taken on such requests.
2. Concerning meetings of the Tobacco Institute's Executive Committee and any issues raised in those meetings.
3. Concerning the monitoring or congressional hearings and agency action, and other similar "intelligence gathering" by the Tobacco Institute.
4. Concerning the so-called Tobacco Institute's "Quotes Books" containing pro-industry arguments regarding smoking health risk issues.
5. Concerning the Tobacco Action Network and its lobbying activities.
6. Concerning the Tobacco Institute Testing Laboratory (TITL) and the research conducted there, as well as the research proposed for action by TITL.
7. Concerning research regarding smoking and health issues by or for the Council for Tobacco Research (CRT), and the funding of such research, directly or indirectly, by Philip Morris.
8. Concerning research regarding smoking and health issues by or for the National ETS Advisory Committee (or Group), and the funding of such research, directly or indirectly, by Philip Morris.
9. Concerning research regarding smoking and health issues by or for the Industry Research Review Group, and the funding of such research, directly or indirectly, by Philip Morris.
10. Concerning research regarding smoking and health issues by or for the International Commission on Smoking Issues (ICOSI) and the funding of such research, directly or indirectly, by Philip Morris.
11. Concerning research regarding smoking and health issues by or for INFOTAB and the funding of such research, directly or indirectly, by Philip Morris.
12. Concerning research regarding smoking and health issues by or for the National Tobacco Council (NTC), and the funding of such research, directly or indirectly, by Philip Morris.

13. Concerning research regarding smoking and health issues by or for Public Smoking Advisory Group (PSAG), and the funding of such research, directly or indirectly, by Philip Morris.
14. Concerning research regarding smoking and health issues by or for the Tobacco Institute (TI), and the funding of such research, directly or indirectly, by Philip Morris.
15. Concerning research regarding smoking and health issues by or for the Tobacco Industry Public Affairs Committee (TIPAC), and the funding of such research, directly or indirectly, by Philip Morris.
16. Concerning research regarding smoking and health issues by or for the Tobacco People Public Affairs Committee (TOPPAC), and the funding of such research, directly or indirectly, by Philip Morris.

#### MONEY MATTERS

17. Concerning discussion of this action in the Management Discussion and Analysis section of the company's 10-K report due March 31, 1995, as well as any drafts the finalized language.
18. Concerning discussion of this action in the Important Legal Items section of the company's 10-K report due March 31, 1995, as well as any drafts the finalized language.
19. Concerning information given to investors concerning this action and its impact, if any, on the company or its operations.
20. Concerning the reserve, if any, set for this case, pursuant to the requirements of Financial Accounting Standards Bulletin Number 5 (FASB-5).
21. Concerning reports, if any, made to the Consumer Products Safety Commission pursuant to regulations promulgated under §§ 15 and 37 of the Consumer Products Safety Act (CPSA).
22. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Tobacco Action Network and its lobbying activities.
23. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Tobacco Institute Testing Laboratory.
24. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Council for Tobacco Research.
25. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the National ETS Advisory Committee (or Group).
26. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Industry Research Review Group.
27. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the International Commission on Smoking Issues.
28. Concerning Philip Morris's funding, directly or indirectly, of any of the work of INFOTAB.

2043724224

29. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the National Tobacco Council.
30. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Public Smoking Advisory Group.
31. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Tobacco Institute.
32. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Tobacco Industry Public Affairs Committee.
33. Concerning Philip Morris's funding, directly or indirectly, of any of the work of the Tobacco People Public Affairs Committee.

#### ADVERTISING AND ADVERTISING CLAIMS

34. Concerning the adequacy, effect, or effectiveness of any warning placed on cigarette packages.
35. Concerning any advertising or public relations campaigns proposed by Burson Marsteller (a PR and advertising agency) for use by the Tobacco Institute in 1982 and 1983.
36. Concerning materials related to Philip Morris' post-1964 consumer research and advertising which was furnished by Philip Morris to the Federal Trade Commission in response to the FTC's May 12, 1976 subpoena which was upheld in *FTC v. Carter* (1980).
37. Concerning whether advertisements constitute an assurance of the safety of the product being advertised.
38. Concerning whether advertisements constitute a concession of the health risks associated with smoking of cigarettes.

#### RESEARCH AND TESTING

39. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of mainstream whole smoke analysis.
40. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of the chemical analysis of tobacco leaf and stem, particularly those showing the presence of non-tobacco plant contaminants.
41. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of the chemical analysis of finished cigarette filters, particularly those showing the presence of dangerous chemicals.
42. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of whether breakaway cellulose acetate fibers can be inhaled.

2043724225

43. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of whether breakaway cellulose acetate fibers can be ingested.
44. Concerning any test done by or for Philip Morris (whether done in connection with litigation, or otherwise) that relates to the subject of the effect of smoke (main- or sidestream) or smoke components on the human biological system.
45. Concerning the confidentiality agreements that are or have been in place between Philip Morris and any other(s) regarding joint research projects that relate directly or indirectly to the health risks, if any, associated with the smoking of cigarettes.
46. Concerning the confidentiality agreements that are or have been in place between Philip Morris and any other(s) regarding joint research projects whose purpose was to disprove the claims that there are health risks associated with the smoking of cigarettes.
47. Concerning whether any chemicals detected in mainstream cigarette smoke may lead to cellular mutagenesis or cellular change (i.e., hyperplasia, metaplasia, or goblet cell formation).
48. Concerning any research funded directly or indirectly by the Industry Research Review Group.
49. Concerning any research done or funded directly or indirectly by Council for Tobacco Research (CTR) Special Projects.
50. Concerning any research done or funded directly or indirectly as a Special Account 4 Project.
51. Concerning review of government research projects related to smoking health issues.
52. Concerning recommendation made by Philip Morris (or any person or entity) acting for Philip Morris (whether directly or indirectly) to research organization about how the latter's research projects related to smoking health issues should be conducted.
53. Concerning any research on smoker's personalities.
54. Concerning any research on why people smoke.
55. Concerning any research on the hazards of synergistic reactions due to the components of mainstream smoke.
56. Concerning lethal doses, chronic doses, and/or toxicity level associated with the components of mainstream cigarette smoke.

#### PUBLIC RELATIONS AND CORPORATE REACTIONS

57. Concerning any market research that Philip Morris did under an assumed name.

#### OTHER MATTERS

58. Concerning an entity known as W.D. & H.O. Wills and its connection with Philip Morris.
59. Concerning threats made to, or warnings given to any news media, or media person, regarding the running of stories about this case in any print or broadcast media.

60. Concerning background briefing (whether on or off the record) given to any news media, or media person, regarding this lawsuit or the issues raised by this lawsuit.
61. Concerning Philip Morris's formal and/or informal record retention and document destruction policies and procedures.
62. Concerning Philip Morris's formal and/or informal policies and procedures related to the designation of information as a Trade Secret, or as Company Confidential, or any other restricted dissemination codeword.
63. Concerning the names and firm affiliation of all lawyers involved in any research done or funded directly or indirectly as a Special Account 4 Project.

END OF PLAINTIFFS' THIRD REQUEST TO PRODUCE  
TO DEFENDANT PHILIP MORRIS INCORPORATED

&

2043724227

## APPENDIX B — INSTRUCTIONS

### SPECIAL INSTRUCTIONS PERTAINING TO THIS REQUEST TO PRODUCE

#### GENERAL INSTRUCTIONS

1. If the company elects not to produce original documents, then it shall produce a *true copy* of the documents. In order for a document to be a true copy the color of the paper of the copy shall be the same color as the original. If the original has highlighting in a color and the copy is not a color copy, then the highlighting shall be reproduced.
2. The company shall produce all documents in a form that renders the documents susceptible to copying.
3. These requests are directed to those documents and things within the company's possession, custody or control, or within the possession, custody or control of its agents, servants and employees (including attorneys). They are also directed to those firms, corporations, partnerships, joint ventures or trusts which the company controls, and to the employees (including attorneys), agents, next friends, trustees, guardians, and representatives of such entities.
4. If the company is unable to comply fully with any request, it shall comply to the extent possible and provide a detailed explanation as to why full compliance is not possible.

#### MATERIALS STORED OR GENERATED BY COMPUTER

5. If copies of the word-processing or spreadsheet document exist and are kept in the usual course of business as word processor or spreadsheet documents in the hard drives of mainframe or personal computers, or are stored on floppy disks, the company shall also produce for inspection and copying the stored document files, which the Philip Morris shall copy onto 3.5-inch high density IBM-compatible diskettes (as Word for Windows, Word Perfect, ASCII Text, Excel, or Lotus files) before turning the computer files over to Plaintiffs.
6. Where materials are furnished by the company in the form of a computer printout, a copy of the associated computer data file shall also be provided in one of the following formats: RPT files, TXT files, formatted ASCII files, PRN files, or SDF files.

#### UNAVAILABLE AND DESTROYED MATERIALS

7. If any document or thing within the scope of any request is unavailable, has been destroyed, or has been discarded, identify the document or thing (by physical description, date, type, author, addressee, signatory, subject, length and topic covered); state when the document or thing was made unavailable, destroyed, or discarded, and why; and identify each person who made, or ordered to be made, the document or thing unavailable, destroyed, or discarded.

**POTENTIALLY PRIVILEGED MATERIALS**

8. An objection to a portion of a request does not relieve the company of the duty to respond to the parts that are not objectionable.
9. Each document, if any, that is withheld from production pursuant to a claim of privilege (privilege as used herein shall include attorney work product) shall be identified in writing and shall be segregated and maintained for possible *in camera* submission to the court, and a list identifying all withheld documents shall be furnished at the time and place of production. The list shall state with respect to each such document:
  - a. The claim of privilege under which the document is being withheld;
  - b. A description of the character or type of document involved, the number of pages involved, and any attachments;
  - c. A general description of the subject matter and purpose of the document;
  - d. The date the document was prepared;
  - e. The author and/or signatory of the document;
  - f. A list of all persons to whom the document is addressed, and persons to whom copies (including blind copies) thereof were furnished, or the document shown, together with their job titles; and
  - g. The present depository of the document. Also, identify all persons who have, or who have had, possession, custody or control of the document or thing (or any portion thereof).
10. Copies of all withheld documents shall be provided to the company's counsel of record in Amarillo, Texas, so that such documents may be *immediately delivered* to the Court for *in camera* inspection upon the request of the Judge or Magistrate.

END OF THE INSTRUCTIONS.

&

## APPENDIX C — DEFINITIONS

### AS USED IN APPENDIX A OR B:

“All” means any and all.

“Anyone acting on its behalf” includes such person’s agents, representatives, employees, insurance company, their agents, representatives, employees, insurance company or investigators.

“Cigarettes” means entire cigarettes, smoked cigarettes or any parts or ingredients thereof, including but not limited to filters, filter-fiber, plasticizers and all additives.

“Cigarette filter materials” the cellulose acetate fibers used as cigarette filter tow and the plasticizer chemicals used as a hardener in the manufacture of cigarette filters.

“Communication” means each and all manners or means of disclosure, transfer or exchange of information, whether oral, written, electronic, or any other means, by document or otherwise, and whether face to face, in a meeting, by telephone, mail, e-mail, personal delivery or otherwise.

“Company” refers to defendant Philip Morris Incorporated, including the defendant’s agents, representatives, employees, insurance company, investigators, their agents, representatives, employees, attorneys or investigators, and anyone else acting on its behalf.

“Complaint” means the Third Amended Complaint filed on or about November 24, 1995, in this action, *David Tijerina, et al. v. Philip Morris Incorporated and Hoechst Celanese Corporation*, No. 2-95-CV-120, in the United States District Court for the Northern District of Texas, Amarillo Division.

“Concerning” and its cognates mean to make a statement about, refer to, discuss, describe, involve, reflect, identify, deal with, consist of, emanate from, explain, comprise, be directed at, or in any way pertain in whole or in part, directly or indirectly, to the subject.

“Conjunctive” shall include the disjunctive (and vice versa).

“Custodian” refers to the person having possession, custody or control of any writing or physical evidence.

“Dangerous chemical” refers to those substances designated as hazardous or potentially hazardous by the Environmental Protection Agency and/or any state or U.S. agency and/or any substances which within your knowledge are potentially hazardous to human beings.

“Defendant” refers to defendant Philip Morris Incorporated, including the defendant’s agents, representatives, employees, insurance company, investigators, their agents, representatives, employees, attorneys or investigators, and anyone else acting on its behalf.

"Describe" and "describe in detail" mean to state each and every fact known concerning the information requested by the interrogatory, including, but not limited to, (1) the identity of each person having any knowledge of each fact or opinion relating to the information requested, (2) the identity of each document evidencing the answer given or any part of the answer given, (3) all relevant dates or time periods, and (4) the substance of any communication.

"Document" has the broad meaning ascribed to it by Fed. R. Civ. P. Rule 34(a), and is used in the widest sense of that term to mean all writings of every kind, and includes, but is not limited to:

- (a) the contents of all document files and all file jackets;
- (b) any written, typed, printed, photocopied, photographic, machine-readable, or magnetically or optically recorded matter of any kind, including, but not limited to:
  - (1) all articles of incorporation, corporate minutes and resolutions, organizational charts, annual reports and 10-K filings;
  - (2) all letters with envelopes, cables, telegrams, telexes, telecopies, facsimiles, paper communications, electronic communications, intra-office communications, inter-office communications, and other correspondence (whether internal or external), all summaries of oral communications, telephonic or otherwise, call-slips, telephone messages or other messages;
  - (3) all appointment books, journals, diaries, calendars, logs (whether of visits, telephone calls or otherwise), and desk pads;
  - (4) all accounting journals, records, books, and chart of accounts;
  - (5) all contracts and agreements and amendments thereto;
  - (6) all notes, minutes, cover sheets, memoranda, reports, opinions, proposals, studies or surveys, summaries or abstracts, position or briefing papers;
  - (7) all balance sheets, ledgers, lists, tabulations, charts, studies, summaries;
  - (8) all guides or guidelines, operating procedures, instructions, hand-books, manuals, bulletins, notices, material safety data sheets (including drafts and communications regarding same);
  - (9) all inspection, testing, and quality control records;
  - (10) all records, folios, books, magazines, pamphlets, articles, notices, newspapers, circulars, bulletins, or articles and clippings from the same;
  - (11) all forms, affidavits, signed statements, depositions, deposition summaries, and pleadings, complaints from customers, and notices of violations or probable violations of any government laws, rules, or regulations;
  - (12) all press releases, pamphlets, speeches, publications, testimony; all indices, tables, charts, graphs, printouts, printed or typewritten forms; all workpapers and the like;

- (13) all advertisement (whether in print, film, or video form); all advertising campaign proposals and plans, and analysis and advertisement placement lists, and tearsheets;
- (14) all business credit card statements, personal credit card statements evidencing expenses that were reimbursed; disbursement ledgers, checks, check registers, invoices, payment instructions, forwarding letters, grant applications, and grant application action papers;
- (15) all drafts of any of the foregoing documents; and all copies of the foregoing which are not identical (because of highlights, sticky stamps, notations, routing stamps, or otherwise) to the original;
- (16) all microfiche, microfilm, negatives, photographs, slides, film impressions, viewgraphs, drawings, and exhibits; and
- (17) all negatives, photographs, slides, and film impressions;
- (18) all viewgraphs, drawings, and exhibits, and drawings;
- (19) all transcriptions by longhand or shorthand recording, tape recorded materials, materials recorded by any electronic means mechanical, magnetic, electronic sound or video or data recordings, and any other type of compilations from which information can be obtained, and the transcripts of any of the foregoing, including transcriptions by mechanical device;
- (20) reports of experts (whether internal or external);

(c) all computer generated information, computer software, computer files, computer disks, computer tapes, all punch cards or other cards, tapes, disks or recordings used in data processing, together with the programming instructions and all written materials necessary to understand or to use the software, punch cards, or data on disks and tape;

(d) anything appended to a document; and

(e) all other information concerning paper, writing or physical thing.

“Each” means each and every.

“Filter” means the filter tip on a cigarettes, including but not limited to the paper, the glue, the filter-fiber, the plasticizers, and all additives contained in the filter.

“He” shall include the her (and vice versa).

“Hoechst Celanese” means Hoechst Celanese Corporations, a corporation, and the other defendant in this action.

“Identify,” “identity” and “identification”, when used with respect to any act, occurrence, occasion, meeting, transaction, or conduct, means to set forth the event or events constituting such act, the exact location, the date and persons participating, present or involved, and any documents relating thereto.

2043724232

"Identify," "identity" and "identification", when used with respect to any agreement or contract, means to state (in addition to what is required for identification of a document) the names of each party to the agreement or contract, the date on which it was entered into, the place it was executed, its terms and/or conditions, the substance of the contents thereof, and if made in writing, in whole or in part, the information required for documents under the instructions above. If the agreement or contract has been amended, this must be stated and the above information furnished for each original and each amendment.

"Identify," "identity" and "identification", when used with respect to any business association, means to state the full name of the business association, the nature of the business association (e.g., corporation, partnership, joint venture, division, etc.) and the principal place of business and address.

"Identify," "identity" and "identification", when used with respect to any communication, means to state the identity of the persons engaging in the communication, the identity of the other persons who were present at the time the communication was made, other persons who had access to the communication, the substance of the communication or discussion, and the substance of what each person said.

"Identify," "identity" and "identification", when used with respect to any document, means to state a description it with reasonable particularity and adequately for purposes of the company being able to produce it in response to a request for production and/or subpoena *duces tecum*, showing the following (unless such information is evident on the face of a document being produced):

- (a) the type of document (e.g., letter, memo, spreadsheet, notepad, calendar, book, etc.);
- (b) the identity of the author(s), creator(s) or editor(s);
- (c) the identity of the document's addressee(s);
- (d) the title (subject line) of the document;
- (e) the date of the document;
- (f) the place it was created;
- (g) the identify of the custodian of the document;
- (h) the identity of the last known person who had possession, custody or control of it, (including such person's full name, last known business address and telephone number).

"Identify," "identity" and "identification", when used with respect to any entity (anything other than a natural person), means to state the full name, business address, and business phone number, of the entity.

"Identify," "identity" and "identification", when used with respect to any person (any natural person or individual), means to state the full name, home and business address, home and business phone number, current or most recent occupation, employer, position, and title of the person; if the present address and phone number is unknown, provide the social security number and/or driver's license number.

**"Incident"** refers to the incidents or occurrences alleged in the Plaintiffs' Third Amended Complaint unless the context indicates otherwise.

**“Including”** means without limitation.

"It" refers to defendant Philip Morris Incorporated, including the defendant's agents, representatives, employees, insurance company, investigators, their agents, representatives, employees, attorneys or investigators, and anyone else acting on your behalf.

“Male” shall include the female (and vice versa).

**“Occurrence” refers to the incidents or occurrences alleged in the Plaintiffs’ Third Amended Complaint unless the context indicates otherwise.**

**“Person with knowledge of relevant facts”** mean that a person has or may have knowledge of any discoverable matter.

**“Person”** means natural persons, groups of natural persons acting as individuals, groups of natural persons acting in a collegial capacity (e.g., as a committee, board of directors, etc.), corporations, partnerships, joint ventures, associations, foundations, governmental or private agencies and any other incorporated or unincorporated public, business or social entity.

**"Philip Morris"** means Philip Morris Incorporated, a corporation, and its parent, any of its subsidiary (whether wholly owned or not), any affiliate corporations, and any entity in which Philip Morris owns a controlling interest.

"Plaintiffs" mean David Tijerina, Edelmire Estringel Tijerina, Weldon Wyatt Lewis, William Thomas Lewis, the estate of Roy Weldon Lewis, Jr., deceased, Frances Watson, and the estate of James Watson, deceased, their, servants and employees (including attorneys).

**“Possession, custody or control”** includes constructive possession such that the person need not have actual physical possession. As long as the person has a superior right to compel the production from a third party (including an agency, authority or representative), the person has possession, custody or control.

“Relating to” and its cognates mean to make a statement about, refer to, discuss, describe, involve, reflect, identify, deal with, consist of, emanate from, explain, comprise, be directed at, or in any way pertain in whole or in part, directly or indirectly, to the subject.

**“Relevant period” means January 1, 1946 through and including January 1, 1996.**

**“Singular” shall include the plural (and vice versa).**

“Smoking” and its cognates mean the inhalation of smoke from a cigarette.

**“Statement”** is a written statement signed or otherwise adopted or approved by the person making it and a stenographic, mechanical, electrical or other type of recording, or any transcription thereof which is a substantially verbatim recital of a statement made by the person and contemporaneously recorded.

**"Toxic substances"** refers to those substances designated as hazardous or potentially hazardous by the Environmental Protection Agency and/or any state or U.S. agency and/or any substances which within your knowledge are potentially hazardous to human beings.

**"Writing"** means any and all handwritten material, typewritten material, printed material, photocopies, photographs, and every other means of recording upon any tangible thing, together with any form of communication or other representation which would constitute a writing within the meaning of any pertinent section of the Federal Rules of Evidence and cases construing the same.

**"You"** refers to defendant Philip Morris Incorporated, including the defendant's agents, representatives, employees, insurance company, investigators, their agents, representatives, employees, attorneys or investigators, and anyone else acting on your behalf.

End of the definitions.

&